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SCOTTISH STATUTORY INSTRUMENTS

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**2009 No. 223**

**SEEDS**

**The Seed (Scotland) (Amendments for  
Conservation Varieties) Regulations 2009**

<i>Made</i>	- - - -	<i>3rd June 2009</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>4th June 2009</i>
<i>Coming into force</i>	- -	<i>30th June 2009</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 16(1) to (5A) and 36 of the Plant Varieties and Seeds Act 1964<sup>(1)</sup> and all other powers enabling them to do so.

In accordance with section 16(1) of that Act they have consulted with representatives of such interests as appear to them to be concerned.

**PART 1**

**GENERAL**

**Citation and commencement**

**1.** These Regulations may be cited as the Seed (Scotland) (Amendments for Conservation Varieties) Regulations 2009 and come into force on 30th June 2009.

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<sup>(1)</sup> 1964 c. 14 Section 16 of the Plant Varieties and Seeds Act 1964 was amended by the European Communities Act 1972 (c. 68), section 4(1) and Schedule 4, paragraph 5(1) and (2). See section 38(1) for the definition of “the Ministers”. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

## PART 2

### AMENDMENTS TO THE CEREAL SEED (SCOTLAND) REGULATIONS 2005

#### Amendment of the Cereal Seed (Scotland) Regulations 2005

2. The Cereal Seed (Scotland) Regulations 2005<sup>(2)</sup> are amended in accordance with regulations 3 to 11.

#### Interpretation

3. In regulation 2(1) (interpretation)–

(a) at the appropriate place insert–

““Commission Directive 2008/62” means Commission Directive [2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed of those landraces and varieties<sup>(3)</sup>”; and

““Conservation Variety” means the landraces or varieties of agricultural plant species which are naturally adapted to local and regional conditions and threatened by genetic erosion and are contained within a UK National List and for these purposes–

(a) “landrace” means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their region; and

(b) “genetic erosion” means loss of genetic diversity between and within populations of varieties of the same species over time or reduction of the genetic basis of a species due to human intervention or environmental change;”;

(b) for the definition of “control plot”, substitute–

““control plot” means a plot sown by a European Authority with seed from a submitted sample taken–

(a) by a European Authority;

(b) by a licensed seed sampler; or

(c) by an applicant of seed of a Conservation Variety;”;

(c) for the definition of “official certificate”, substitute–

““official certificate” means a certificate issued by the Scottish Ministers in accordance with these Regulations and “officially certified” shall be construed accordingly;”.

#### Marketing of seed

4. In regulation 6 (marketing of seed)–

(a) in paragraph (1)(b)(i) for “Pre-basic Seed, fully certified Basic Seed or Seed of a Certified Generation” substitute “Pre-basic Seed, fully certified Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety”;

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(2) [S.S.I. 2005/328](#) as amended by [S.S.I. 2006/313](#) and [448](#), [S.S.I. 2007/224](#) and [536](#).

(3) [O.J. No. L 162, 21.6.2008, p.13.](#)

- (b) for paragraph (2) substitute—
  - “(2) Paragraph (1) shall not apply to the marketing of seed which has not yet been fully certified if—
    - (a) the seed is marketed for processing;
    - (b) the identity of the seed is ensured; and
      - (i) the seed has been harvested by an official field inspection to satisfy the conditions specified in Part I of Schedule 4 or Annex I (crop conditions) of the Cereal Seed Directive for the relevant category of seed; or
      - (ii) the seed of a Conservation Variety has been harvested from a crop which has been found to satisfy the conditions specified in Part III of Schedule 4A.”;
- (c) in paragraph (3)—
  - (i) delete “either”;
  - (ii) after “Schedule 2,” insert “the examination referred to in paragraph 2(b) of Part I of Schedule 4A”(4).

#### **Insertion of new regulation 9B**

5. After regulation 9A (exception for test and trial seed)(5), insert—

##### **“Exception for Conservation Varieties**

**9B.**—(1) No person may market seed of a Conservation Variety unless the requirements of paragraphs (2), (3) and (5) are met.

(2) The seed must descend from seed produced according to well defined practices for maintenance of the variety.

(3) The seed must have been harvested from a crop that—

- (a) has been produced in the region of origin for the variety or additional region; and
- (b) satisfies the conditions laid down in Part III of Schedule 4A.

(4)

- (a) Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in Part III of Schedule 4A are met by the use of methods which may include examination of a post control plot sown with a sample from the seed and the consideration of any other relevant information; and

(b) for the avoidance of doubt an examination by means of an official field inspection of the crop will not be required.

(5) The seed must satisfy the conditions laid down in Part IV of Schedule 4A.

(6) No person may market seed of a Conservation Variety other than in its region of origin.

(7) A person proposing to produce seed of a Conservation Variety must supply the Scottish Ministers, in such manner and form as the Scottish Ministers may require, with the following details in writing—

- (a) the size (in hectares); and
- (b) the location,

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(4) Schedule 4A is inserted by regulation 10 of and Schedule 1 to, these Regulations.

(5) Regulation 9A was inserted by [S.S.I. 2007/224](#).

of the area to be used to produce that seed.

(8) For the purposes of Article 14 of Commission Directive 2008/62, the Scottish Ministers may specify the maximum amount of seed of a Conservation Variety which may be marketed in any given growing season. Different maxima for different persons or classes of person may be specified.

(9) No person shall market more than the maximum amount of seed of a Conservation Variety applicable to that person as specified under paragraph (7).

(10) Any person marketing seed of a Conservation Variety must supply the Scottish Ministers, on request, with details in writing of the amount and variety of the seed placed on the market during each growing season.

(11) In this regulation—

“additional region” means the region for seed production approved by the Scottish Ministers for the purposes of the second paragraph of Article 11(1) of the Commission Directive 2008/ 62; and

“region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 8.1 of Commission Directive 2008/62.”

### **Applications for official certificates**

6. In regulation 14 (applications for official certificates)—

- (a) in paragraph (1) for “Pre basic Seed, Basic Seed or Seed of a Certified Generation” substitute “Pre basic Seed, Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety”;
- (b) in paragraph (2), after “Schedule 2” insert “or, in the case of seed of a Conservation Variety, Part I of Schedule 4A”;
- (c) in paragraph (4)—
  - (i) in sub-paragraph (b), after “Schedule 4” insert “or, in the case of seed of a Conservation Variety, Part III of Schedule 4A”; and
  - (ii) in sub-paragraphs (c) after “Schedule 4”, in each place those words occur, insert “or, in the case of seed of a Conservation Variety, Part IV of Schedule 4A”.

### **Sampling**

7. In regulation 15 (sampling) after paragraph (1) insert—

“(1A) A sample of seed of a Conservation Variety taken for the purposes of checking compliance with these Regulations shall comply with paragraph 15(1)(b) and (c) and Part II of Schedule 5.”.

### **Sealing of packages of fully certified seed**

8. In regulation 16 (sealing of packages of fully certified seed)—

- (a) in paragraphs (1), (3), (4) and (5), for “regulations 6(1), 8, 9A, 11 or 12” substitute, “regulation 6(1), 8, 9A, 9B, 11 or 12”;
- (b) in paragraph (1) for “test and trial seed, lower germination seed” substitute “test and trial seed, seed of a Conservation Variety, lower germination seed”; and
- (c) in paragraph (4) for “Seed of a Certified Generation, lower germination seed” substitute “Seed of a Certified Generation, seed of a Conservation Variety, lower germination seed”.

### **Labelling of packages of fully certified seed**

- 9.** In regulation 17 (labelling of packages of fully certified seed)–
- (a) in paragraph (1)–
    - (i) for “regulations 6(1), 8, 9A, 11 or 12” substitute “regulation 6(1), 8, 9A, 9B, 11 or 12”; and
    - (ii) for “test and trial seed, lower germination seed” substitute “test and trial seed, seed of a Conservation Variety, lower germination seed”;
  - (b) after paragraph (4) insert–
    - “(4A) A package of seed of a Conservation Variety shall–
      - (a) have affixed on the outside a label, which has not previously been used, containing, as appropriate to the seed, particulars of the matters specified, and being of the colour also specified, in paragraph 6B of Part II of Schedule 6, which shall be either an adhesive label or tear proof label and shall be affixed, in either case, not later than at the time of sealing; and
      - (b) where seed is sealed in–
        - (i) the United Kingdom but not in Scotland; or
        - (ii) an EEA state other than the United Kingdom,
- be labelled in accordance with the provisions of Article 18 of Commission Directive 2008/62.”.

### **Insertion of new Schedule 4A**

**10.** After Schedule 4 (requirements for pre-basic seed, basic seed, certified seed, certified seed of the first generation and certified seed of the second generation), insert Schedule 4A, contained in Schedule 1 to these Regulations.

### **Insertion of new paragraph 6B to Schedule 6**

**11.** In Schedule 6, in Part II (Labels), after paragraph 6A (official label for a package of test and trial seed)(6) insert–

#### **“Official label for a package of seed of a Conservation Variety**

- 6B.** The official label for a package of seed of a Conservation Variety shall–
- (a) contain the following information–
    - (i) the words “EC rules and standards”;
    - (ii) the name and address, or the registration number, of the person responsible for affixing the label or notice;
    - (iii) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
    - (iv) the species;
    - (v) the denomination of the Conservation Variety;
    - (vi) the words “Conservation Variety”;
    - (vii) the region of origin;

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(6) Paragraph 6A was inserted by [S.S.I. 2007/224](#).

- (viii) where the region of seed production is different from the region of origin, the indication of the region of seed production;
  - (ix) the reference number of the lot given by the person responsible for affixing the labels;
  - (x) the declared net or gross weight or declared number of seeds; and
  - (xi) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight; and
- (b) be a minimum size of 110 millimetres by 67 millimetres; and
  - (c) be coloured brown.”.

### PART 3

#### AMENDMENTS TO THE OIL AND FIBRE PLANT SEED (SCOTLAND) REGULATIONS 2004

##### Amendment of the Oil and Fibre Plant Seed (Scotland) Regulations 2004

12. The Oil and Fibre Plant Seed (Scotland) Regulations 2004(7) are amended in accordance with regulations 13 to 21.

##### Interpretation

13. In regulation 2(1) (interpretation)–

(a) at the appropriate place insert–

““Commission Directive 2008/62” means Commission Directive [2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local and regional conditions and threatened by genetic erosion and for marketing of seed of those landraces and varieties(8);”; and

““Conservation Variety” means the landraces or varieties of agricultural plant species which are naturally adapted to local and regional conditions and threatened by genetic erosion and are contained within a UK National List and for these purposes–

(a) “landrace” means a set of populations or clones of a plant species which are naturally adapted to the environmental conditions of their regions; and

(b) “genetic erosion” means loss of genetic diversity between and within populations of varieties of the same species over time or reduction of the genetic basis of a species due to human intervention or environmental change;”;

(b) for the definition of “control plot”, substitute–

““control plot” means a plot sown by a European Authority with a seed from a submitted sample taken–

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(7) S.S.I. 2004/317 as amended by S.S.I. 2006/313, 2007/224 and 536.

(8) O.J. No. L 162, 21.6.2008, p.13.

- (a) by a European Authority;
  - (b) by a licensed seed sampler; or
  - (c) by an applicant of a seed of a Conservation Variety;” and
- (c) for the definition of “official certificate”, substitute—
- ““official certificate” means a certificate issued by the Scottish Ministers in accordance with these Regulations and “officially certified” shall be construed accordingly;”.

### Marketing of seed

**14.** In regulation 6 (marketing of seed)—

- (a) in paragraph (1)(b)(ii) for “Pre-basic Seed, fully certified Basic Seed or Seed of a Certified Generation” substitute “Pre-basic Seed, fully certified Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety”.
- (b) for paragraph (2) substitute—

“(2) Paragraph (1) shall not apply to the marketing of seed which has not yet been fully certified if—

  - (a) the seed is marketed for processing;
  - (b) the identity of the seed is ensured; and
  - (i) the seed has been harvested from a crop which has been found by an official field inspection to satisfy the conditions specified in Part I of Schedule 4 or Annex I (crop conditions) of the Oil and Fibre Plant Seed Directive for the relevant category of seed; or
  - (ii) the seed of a Conservation Variety has been harvested from a crop which has been found to satisfy the conditions specified in Part III of Schedule 4A.”;
- (c) in paragraph (3)—
  - (i) delete “either”;
  - (ii) after “Schedule 2,” insert “the examination referred to in paragraph 2(b) of Part I of Schedule 4A”(9).

### Insertion of new regulation 8B

**15.** After regulation 8A (exception for test and trial seed)(10), insert—

**“Exception for conservation varieties**

**8B.**—(1) No person may market seed of a Conservation Variety unless the requirements of paragraphs (2), (3) and (5) are met.

(2) The seed must descend from seed produced according to well defined practices for maintenance of the variety.

(3) The seed must have been harvested from a crop that—

- (a) has been produced in the region of origin for the variety or additional region; and
- (b) satisfies the conditions laid down in Part III of Schedule 4A;

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(9) Schedule 4A is inserted by regulation 20 of, and Schedule 2 to, those Regulations.

(10) Regulation 8A was inserted by [S.S.I. 2007/224](#).

- (4)
- (a) Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in Part III of Schedule 4A are met by the use of methods which may include examination of a post control plot sown with a sample from the seed and the consideration of any other relevant information; and
  - (b) for the avoidance of doubt an examination by means of an official field inspection of the crop will not be required.
- (5) The seed must satisfy the conditions laid down in Part IV of Schedule 4A.
- (6) No person may market seed of a Conservation Variety other than in its region of origin.
- (7) A person proposing to produce seed of a Conservation Variety must supply the Scottish Ministers, in such manner and form as the Scottish Ministers may require, with the following details in writing–
- (a) the size (in hectares); and
  - (b) the location,
- of the area to be used to produce that seed.
- (8) For the purposes of Article 14 of Commission Directive 2008/62, the Scottish Ministers may specify the maximum amount of seed of a Conservation Variety which may be marketed in any given growing season. Different maxima for different persons or classes of person may be specified.
- (9) No person shall market more than the maximum amount of seed of a Conservation Variety applicable to that person as specified under paragraph (7).
- (10) Any person marketing seed of a Conservation Variety must supply the Scottish Ministers, on request, with details in writing of the amount and variety of the seed placed on the market during each growing season.
- (11) In this regulation–
- “additional region” means the region for seed production approved by the Scottish Ministers for the purposes of the second paragraph of Article 11(1) of the Commission Directive 2008/ 62; and
  - “region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 8.1 of Commission Directive 2008/62.”

### **Applications for official certificates**

- 16.** In regulation 14 (applications for official certificates)–
- (a) in paragraph (1) for “Pre basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed” substitute “Pre basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed or seed of a Conservation Variety”;
  - (b) in paragraph (2) after “Schedule 2” insert “or, in the case of seed of a Conservation Variety, Part 1 of Schedule 4A”;
  - (c) in paragraph (4)–
    - (i) in sub-paragraph (b), after “Schedule 4” insert “or, in the case of a Conservation Variety, Part III of Schedule 4A”; and
    - (ii) in sub-paragraph (c) after “Schedule 4”, in each place those words occur, insert “or, in the case of a Conservation Variety, Part IV of Schedule 4A”.



### **Sampling**

17. In regulation 15 (sampling) after paragraph (1) insert–

“(1A) A sample of seed of a Conservation Variety taken for the purposes of checking compliance with these Regulations shall comply with paragraph (1)(b) and (c) and Part II of Schedule 5.”.

### **Sealing of packages of fully certified seed**

18. In regulation 16 (sealing of packages of fully certified seed)–

- (a) in paragraph (1), (3), (4) and (5) for “regulations 6(1), 8A, 9, 11 or 12” substitute “regulation 6(1), 8A, 8B, 9, 11 or 12”;
- (b) in paragraph (1) for “test and trial seed, a varietal association to which regulation 9 applies” substitute “test and trial seed, seed of a Conservation Variety, a varietal association to which regulation 9 applies”; and
- (c) in paragraph (4) for “Seed of a Certified Generation, a varietal association to which regulation 9 applies” substitute “Seed of a Certified Generation, seed of a Conservation Variety, a varietal association to which regulation 9 applies”.

### **Labelling of packages of fully certified seed**

19. In regulation 17 (labelling of packages of fully certified seed)–

- (a) in paragraph (1)–
  - (i) for “regulations 6(1), 8A, 9, 11 or 12” substitute “regulation 6(1), 8A, 8B, 9, 11 or 12”; and
  - (ii) for “test and trial seed, a varietal association to which regulation 9 applies” substitute “test and trial seed, seed of a Conservation Variety, a varietal association to which regulation 9 applies”;
- (b) after paragraph (4) insert–

“(4A) A package of a seed of a Conservation Variety shall–

  - (a) have affixed on the outside a label, which has not previously been used, containing, as appropriate to the seed, particulars of the matters specified, and being of the colour also specified, in paragraph 6B of Part II of Schedule 6, which shall be either an adhesive label or tear proof label and shall be affixed, in either case, not later than at the time of sealing; and
  - (b) where seed is sealed in–
    - (i) the United Kingdom but not in Scotland; or
    - (ii) an EEA state other than the United Kingdom,be labelled in accordance with the provisions of Article 18 of Commission Directive 2008/62.”.

### **Insertion of new Schedule 4A**

20. After Schedule 4 (requirements for basic seed, certified seed, certified seed of the first generation, certified seed of the second generation, certified seed of the third generation and commercial seed), insert Schedule 4A, contained in Schedule 2 to these Regulations.

### **Insertion of new paragraph 6B to Schedule 6**

**21.** In Schedule 6, in Part II (Labels), after paragraph 6A (official label for a package of test and trial seed)<sup>(11)</sup> insert—

#### **“Official label for a package of seed of a Conservation Variety**

**6B.—**(1) The official label for a package of seed of a Conservation Variety shall—

- (a) contain the following information—
  - (i) the words “EC rules and standards”;
  - (ii) the name and address, or the registration number, of the person responsible for affixing the label or notice;
  - (iii) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
  - (iv) the species;
  - (v) the denomination of the Conservation Variety;
  - (vi) the words “Conservation Variety”;
  - (vii) the region of origin;
  - (viii) where the region of seed production is different from the region of origin, the indication of the region of seed production;
  - (ix) the reference number of the lot given by the person responsible for affixing the labels;
  - (x) the declared net or gross weight or declared number of seeds; and
  - (xi) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight; and
- (b) be a minimum size of 110 millimetres by 67 millimetres; and
- (c) be coloured brown.”.

## **PART 4**

### **AMENDMENTS TO THE FODDER PLANT SEED (SCOTLAND) REGULATIONS 2005**

#### **Amendment of the Fodder Plant Seed (Scotland) Regulations 2005**

**22.** The Fodder Plant Seed (Scotland) Regulations 2005<sup>(12)</sup> are amended in accordance with regulations 23 to 31.

#### **Interpretation**

**23.** In regulation 2(1) (interpretation)—

- (a) at the appropriate place insert—

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<sup>(11)</sup> Regulation 6A was inserted by [S.S.I. 2007/224](#).

<sup>(12)</sup> [S.S.I. 2005/329](#) as amended by [S.S.I. 2006/313](#), [2007/224](#) and [536](#).

““Commission Directive 2008/62” means Commission Directive [2008/62/EC](#) providing for certain derogations for acceptance of agricultural landraces and varieties which are naturally adapted to the local land regional conditions and threatened by genetic erosion and for marketing of seed of those landraces and varieties(13);”; and

““Conservation variety” means the landraces or varieties of agricultural plant species which are naturally adapted to local and regional conditions and threatened by genetic erosion and are contained within a UK National List and for these purposes–

- (a) “landrace” means a set of populations or clones of a plant species which are naturally adapted to the environment conditions of their regions; and
- (b) “genetic erosion” means loss of genetic diversity between and within populations of varieties of the same species over time or reduction of the genetic basis of a species due to human intervention or environmental change;”;

- (b) for the definition of “control plot”, substitute–

““control plot” means a plot sown by a European Authority with a seed from a submitted sample taken–

- (a) by a European Authority;
- (b) by a licensed seed sampler; or
- (c) by an applicant of a seed of a Conservation Variety;”;

- (c) for the definition of “official certificate”, substitute–

““official certificate” means a certificate issued by the Scottish Ministers in accordance with these Regulations and “officially certified” shall be construed accordingly;”.

## **Marketing of seed**

### **24. In regulation 6 (marketing of seed)–**

- (a) in paragraph (1)(b)(ii) for “Pre-basic Seed, fully certified Basic Seed or Seed of a Certified Generation” substitute “Pre-basic Seed, fully certified Basic Seed, Seed of a Certified Generation or seed of a Conservation Variety”;
- (b) for paragraph (2) substitute–

“(2) Paragraph (1) shall not apply to the marketing of seed which has not yet been fully certified if–

  - (a) the seed is marketed for processing;
  - (b) the identity of the seed is ensured; and
  - (c) the seed has been harvested from a crop which has been found by an official field inspection to satisfy the conditions specified in Part I of Schedule 4 or Annex I (crop conditions) of the Fodder Plant Seed Directive for the relevant category of seed; or
  - (d) the seed of a Conservation Variety has been harvested from a crop which has been found to satisfy the conditions specified in Part III of Schedule 4A.”;
- (c) in paragraph 3–
  - (i) delete “either”;

- (ii) after “Schedule 2,” insert “the examination referred to in paragraph 2(b) of Part I of Schedule 4A”(14).

### **Insertion of new regulation 9B**

25. After regulation 9A (exception for test and trial)(15), insert–

#### **“Exception for conservation varieties**

##### **9B**

- (1) No person may market seed of a Conservation Variety unless the requirements of paragraphs (2), (3) and (5) are met.
- (2) The seed must descend from seed produced according to well defined practices for maintenance of the variety.
- (3) The seed must have been harvested from a crop that–
- (a) has been produced in the region of origin for the variety or additional region; and
  - (b) satisfies the conditions laid down in Part III of Schedule 4A.
- (4)
- (a) Scottish Ministers may ascertain, so far as practicable, whether the requirements for the crop set out in Part III of Schedule 4A are met by the use of methods which may include examination of a post control plot sown with a sample from the seed and the consideration of any other relevant information; and
  - (b) for the avoidance of doubt an examination by means of an official field inspection of the crop will not be required.
- (5) The seed must satisfy the conditions laid down in Part IV of Schedule 4A.
- (6) No person may market seed of a Conservation Variety other than its region of origin.
- (7) A person proposing to produce seed of a Conservation Variety must supply the Scottish Ministers, in such manner and form as the Scottish Ministers may require, with the following details in writing–
- (a) the size (in hectares); and
  - (b) the location,
- of the area to be used to produce that seed.
- (8) For the purposes of Article 14 of Commission Directive 2008/62, the Scottish Ministers may specify the maximum amount of seed of a Conservation Variety which may be marketed in any given growing season. Different maxima for different persons or classes of person may be specified.
- (9) No person shall market more than the maximum amount of seed of a Conservation Variety applicable to that person as specified under (7).
- (10) Any person marketing seed of a Conservation Variety must supply Scottish Ministers, on request, with details in writing of the amount and variety of the seed placed on the market during each growing season.
- (11) In this regulation–

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(14) Schedule 4A is inserted by regulation 30 of, and Schedule 3 to, these Regulations.

(15) Regulation 9A was inserted by [S.S.I. 2007/224](#).

“additional region” means the region for seed production approved by the Scottish Ministers for the purposes of the second paragraph of Article 11(1) of the Commission Directive 2008/ 62; and

“region of origin” means the region forming a part or the whole of the United Kingdom identified by the Scottish Ministers for the purposes of Article 8.1 of Commission Directive 2008/62.”

### **Applications for official certificates**

**26.** In regulation 14 (applications for official certificates)–

- (a) in paragraph (1) for “Pre basic Seed, Basic Seed, Seed of a Certified Generation or Commercial Seed” substitute “Pre basic Seed, Basic Seed, Seed of a Certified Generation, Commercial Seed or seed of a Conservation Variety”;
- (b) in paragraph (2) after “Schedule 2” insert “or, in the case of a Conservation Variety, Part 1 of Schedule 4A”;
- (c) in paragraph (4)–
  - (i) in sub-paragraph (b), after “Schedule 4” insert “or, in the case of seed of a Conservation Variety, Part III of Schedule 4A”; and
  - (ii) in sub-paragraph (c) after “Schedule 4”, in each place those words occur, insert “or, in the case of a Conservation Variety, Part IV of Schedule 4A”.

### **Sampling**

**27.** In regulation 15 (sampling)–

- (a) after paragraph (1) insert–

“(1A) A sample of seed of a Conservation Variety taken for the purposes of checking compliance with these Regulations shall comply with paragraph (1)(b) and (c) and Part II of Schedule 5.”.

### **Sealing of packages of fully certified seed**

**28.** In regulation 16 (sealing of packages of fully certified seed)–

- (a) in paragraphs (1), (3), (4) and (5) for “regulations 6(1), 8, 9A, 11 or 12” substitute “regulation 6(1), 8, 9A, 9B, 11 or 12”;
- (b) in paragraph (1) for “Seed of a Certified Generation, Commercial Seed” substitute “Seed of a Certified Generation, seed of an Conservation Variety, Commercial Seed”; and
- (c) in paragraph (4) for “Seed of a Certified Generation, Commercial Seed” substitute “Seed of a Certified Generation, seed of a Conservation Variety, Commercial Seed”.

### **Labelling of packages of fully certified seed**

**29.** In regulation 17 (labelling of packages of fully certified seed)–

- (a) in paragraph (1)–
  - (i) for “regulations 6(1), 8, 9A, 11 or 12” substitute “regulation 6(1), 8, 9A, 9B, 11 or 12”; and
  - (ii) for “test and trial seed, lower germination seed” substitute “test and trial seed, seed of a Conservation Variety, lower germination seed”;
- (b) after paragraph (4) insert–

- “(4A) A package of a seed of a Conservation Variety shall–
- (a) have affixed on the outside a label, which has not previously been used, containing, as appropriate to the seed, particulars of the matters specified, and being of the colour also specified, in paragraph 6B of Part II of Schedule 6, which shall be either an adhesive label or tear proof label and shall be affixed, in either case, not later than at the time of sealing; and
  - (b) where seed is sealed in–
    - (i) the United Kingdom but not in Scotland; or
    - (ii) an EEA state other than the United Kingdom,
 be labelled in accordance with the provisions of Article 18 of Commission Directive 2008/62.”.

#### **Insertion of new Schedule 4A**

**30.** After Schedule 4 (requirements for pre-basic seed, basic seed, certified seed, certified seed of the first generation, certified seed of the second generation and commercial seed) insert Schedule 4A, contained in Schedule 3 to these Regulations.

#### **Insertion of new paragraph 6A in Schedule 6**

**31.** In Schedule 6, in Part II (Labels), after paragraph 6A (official label for a package of test and trial seed)(16) insert–

##### **“Official label for a package of seed of a Conservation Variety**

- 6B.—**(1) The official label for a package of seed of a Conservation Variety shall–
- (a) contain the following information–
    - (i) the words “EC rules and standards”;
    - (ii) the name and address, or the registration number, of the person responsible for affixing the label or notice;
    - (iii) the year of sealing, or the year of last sampling for the purposes of the last testing of germination, expressed by the word “sealed” or “sampled” (as the case may be), followed by the year in question;
    - (iv) the species;
    - (v) the denomination of the Conservation Variety;
    - (vi) the words “Conservation Variety”;
    - (vii) the region of origin;
    - (viii) where the region of seed production is different from the region of origin, the indication of the region of seed production;
    - (ix) the reference number of lot given by the person responsible for affixing the labels;
    - (x) the declared net or gross weight or declared number of seeds; and
    - (xi) where weight is indicated and granulated pesticides, pelleting substances or other solid additives are used, the nature of the chemical treatment or additive and the approximate ratio between the weight of clusters of pure seeds and the total weight; and

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(16) Regulation 6A was inserted by [S.S.I. 2007/224](#).

- (b) be a minimum size of 110 millimetres by 67 millimetres; and
- (c) be coloured brown.”.

St Andrew’s House,  
Edinburgh  
3rd June 2009

*RICHARD LOCHHEAD*  
A member of the Scottish Executive

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SCHEDULE 1

Regulation 10

SCHEDULE 4A TO BE INSERTED IN THE  
CEREAL SEED (SCOTLAND) REGULATIONS 2005

“SCHEDULE 4A

Regulations 6, 9B and 14

STANDARDS FOR CERTIFICATION OF CONSERVATION VARIETIES

PART I

OFFICIAL CERTIFICATES

**Applications for seed harvested in the United Kingdom**

1. On receipt of an application made in accordance with regulation 14(1) in respect of seed of a Conservation Variety for the issue of an official certificate in respect of that Conservation Variety, the Scottish Ministers shall, subject to paragraphs 2 and 3, issue in respect of such a seed lot an official certificate containing the particulars specified in Part II of this Schedule.

**When applications will be refused**

2. The Scottish Ministers shall refuse to issue an official certificate in respect of a seed lot of a Conservation Variety unless—

- (a) an application has been made to the Scottish Ministers, in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by information, material, records, illustrations and other documents as they may require in respect of—
  - (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be, or has been, obtained the seed lot in respect of which the application for an official certificate has been made; and
  - (ii) the crop or crops from which the seed lot is to be, or has been, obtained;
- (b) an examination of a sample of the seed lot has shown that the seed lot meets the standards appropriate to the relevant category of seed referred to in the application specified in paragraph 1 of Part IV of this Schedule.

**When applications may be refused**

3. The Scottish Ministers may refuse to issue an official certificate in respect of a seed lot if it appears to them that—

- (a) a sample taken from the seed lot for the purposes of an examination to ascertain whether the seed lot meets the appropriate standards in Part IV of this Schedule has not been taken in accordance with regulation 15(1A);
- (b) an examination of a post control plot sown with a sample of the seed lot shows that the crop does not meet the appropriate standards specified in Part III of this Schedule;
- (c) there has been any breach of seeds regulations in relation to the seed lots in respect of which the application for an official certificate has been made.



## PART II

### PARTICULARS TO BE SPECIFIED IN AN OFFICIAL CERTIFICATE

The following particulars shall be specified in an official certificate:—

- (a) name and address of certifying authority;
- (b) applicant's name, address and, if appropriate, registered number;
- (c) seed lot reference number;
- (d) species and variety;
- (e) net weight of seed lot and number of containers;
- (f) seed treatment, if any; and
- (g) the region of origin/region of seed production (if applicable) of the Conservation Variety.

## PART III

### CONDITIONS RELATING TO CROPS FROM WHICH SEED IS OBTAINED

#### **Varietal identity and varietal purity**

1. The characteristics used for determination of varietal identity and varietal purity shall be those to which regard was had when the Conservation Variety was accepted on to the relevant UK National List, an equivalent list in another EEA State or the Common Catalogue.

#### **Harmful organisms in the crop**

2. Harmful organisms which reduce the usefulness of the seed, in particular *Ustilaginaceae*, shall be at the lowest possible level.

#### **Crop Standards for loose smut infection**

3. The maximum percentage by number of loose smut infection for barley, durum wheat, spelt wheat and wheat shall be 0.5%.

## PART IV

### CONDITIONS RELATING TO SEED OF A CONSERVATION VARIETY

#### **Standards of germination, analytical purity and content of seed of other plant species**

1. The seed shall conform to the minimum EC standard for the final generation of that species as listed in paragraph 16 of Part II of Schedule 4 as regards germination, analytical purity and the content of seeds of other plant species.

#### **Harmful organisms in the seed**

2. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

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#### **Standards for loose smut infection**

3. In any sample of seed of barley, durum wheat, spelt wheat or wheat, the maximum percentage by number of loose smut infection shall be 0.5%.

#### **Moisture content**

4. The requirements of moisture content of the seed shall be as specified in paragraph 19 of Part II of Schedule 4.

#### **Varietal purity**

5. The seed shall have sufficient varietal purity.

## **PART V**

### **EXAMINATIONS**

All examinations used to ascertain whether crops or seed lots meet the standards specified in this Schedule shall be carried out in accordance with current international methods insofar as such methods exist.”.

#### **SCHEDULE 2**

Regulation 20

#### **SCHEDULE 4A TO BE INSERTED IN THE OIL AND FIBRE PLANT SEED (SCOTLAND) REGULATIONS 2004**

#### **“SCHEDULE 4A**

Regulations 6, 8B and 14

#### **STANDARDS FOR CERTIFICATION OF CONSERVATION VARIETIES**

## **PART I**

### **OFFICIAL CERTIFICATES**

#### **Applications for seed harvested in the United Kingdom**

1. On receipt of an application made in accordance with regulation 14(1) in respect of seed of a Conservation Variety for the issue of an official certificate in respect of that Conservation Variety, the Scottish Ministers shall, subject to paragraphs 2 and 3, issue in respect of such a seed lot an official certificate containing the particulars specified in Part II of this Schedule.

#### **When applications will be refused**

2. The Scottish Ministers shall refuse to issue an official certificate in respect of a seed lot of a Conservation Variety unless—

- (a) an application has been made to the Scottish Ministers, in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by information, material, records, illustrations and other documents as they may require, in respect of—

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- (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be or has been obtained the seed lot in respect of which the application for an official certificate has been made; and
- (ii) the crop or crops from which the seed lot is to be, or has been, obtained;
- (b) an examination of a sample of the seed lot has shown that the seed lot meets the standards appropriate to the relevant category of seed referred to in the application specified in paragraph 1 of Part IV of this Schedule.

#### **When applications may be refused**

3. The Scottish Ministers may refuse to issue an official certificate in respect of a seed lot if it appears to them that—
- (a) a sample taken from the seed lot for the purposes of an examination to ascertain whether the seed lot meets the appropriate standards in Part IV this Schedule has not been taken in accordance with regulation 15(1A);
  - (b) an examination of a post control plot sown with a sample of the seed lot shows that the crop does not meet the appropriate standards specified in Part III of this Schedule;
  - (c) there has been any breach of seeds regulations in relation to the seed lots in respect of which the application for an official certificate has been made.

## **PART II**

### **PARTICULARS TO BE SPECIFIED IN AN OFFICIAL CERTIFICATE**

The following particulars shall be specified in an official certificate—

- (a) name and address of certifying authority;
- (b) applicant's name, address and, if appropriate, registered number;
- (c) seed lot reference number;
- (d) species and variety;
- (e) net weight of seed lot and number of containers;
- (f) seed treatment, if any; and
- (g) the region of origin/region of seed production (if applicable) of the Conservation Variety.

## **PART III**

### **CONDITIONS RELATING TO CROPS FROM WHICH SEED IS OBTAINED**

#### **Varietal identity and varietal purity**

1. The characteristics used for determination of varietal identity and varietal purity shall be those to which regard was had when the Conservation Variety was accepted on to the relevant UK National List, an equivalent list in another EEA State or the Common Catalogue.

#### **Harmful organisms in the crop**

2. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

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## PART IV

### CONDITIONS RELATING TO SEED OF A CONSERVATION VARIETY

#### **Standards of germination, analytical purity and content of seed of other plant species**

1. The seed shall conform to the minimum EC standards for the final germination of that species as listed in paragraphs 13 and 14 of Part II of Schedule 4 as regards germination of pure seed, analytical purity and content of seed of other plant species.

#### **Harmful organisms in the seed**

2. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level and shall comply with the requirements in paragraph 15(b) and (c) of Part II of Schedule 4 (if appropriate).

#### **Varietal purity**

3. The seed shall have sufficient varietal purity.

## PART V

### EXAMINATIONS

All examinations used to ascertain whether crops or seed lots meet the standards specified in this Schedule shall be carried out in accordance with current international methods insofar as such methods exist.”.

### SCHEDULE 3

Regulation 30

### SCHEDULE 4A TO BE INSERTED IN THE FODDER PLANT SEED (SCOTLAND) REGULATIONS 2005

### “SCHEDULE 4A

Regulations 6, 9B and 14

### STANDARDS FOR CERTIFICATION OF CONSERVATION VARIETIES

## PART I

### OFFICIAL CERTIFICATES

#### **Applications for seed harvested in the United Kingdom**

1. On receipt of an application made in accordance with regulation 14(1) in respect of seed of a Conservation Variety for the issue of an official certificate in respect of that Conservation Variety, the Scottish Ministers shall, subject to paragraphs 2 and 3, issue in respect of such a seed lot an official certificate containing the particulars specified in Part II of this Schedule.

### **When applications will be refused**

2. The Scottish Ministers shall refuse to issue an official certificate in respect of a seed lot of a Conservation Variety unless—
- (a) an application has been made to the Scottish Ministers, in writing in such form and manner and at such time as the Scottish Ministers may require, and has been accompanied by such information, material, records, illustrations and other documents as they may require, in respect of—
    - (i) the seed lot or seed lots to be used for the production of the crop or crops from which is to be or has been obtained the seed lot in respect of which the application for an official certificate has been made; and
    - (ii) the crop or crops from which the seed lot is to be or has been obtained;
  - (b) an examination of a sample of the seed lot has shown that the seed lot meets the standards appropriate to the relevant category of seed referred to in the application specified in paragraph 1 of Part IV of this Schedule.

### **When applications may be refused**

3. The Scottish Ministers may refuse to issue an official certificate in respect of a seed lot if it appears to them that—
- (a) a sample taken from the seed lot for the purposes of an examination to ascertain whether the seed lot meets the appropriate standards in Part IV of this Schedule has not been taken in accordance with regulation 15(1A);
  - (b) an examination of a post control plot sown with a sample of the seed lot shows that the crop does not meet the appropriate standards specified in Part III of this Schedule;
  - (c) there has been any breach of seeds regulations in relation to the seed lots in respect of which the application for an official certificate has been made.

## **PART II**

### **PARTICULARS TO BE SPECIFIED IN AN OFFICIAL CERTIFICATE**

The following particulars shall be specified in an official certificate—

- (a) name and address of certifying authority;
- (b) applicant's name, address and, if appropriate, registered number;
- (c) seed lot reference number;
- (d) species and variety;
- (e) net weight of seed lot and number of containers;
- (f) seed treatment, if any; and
- (g) the region of origin/region of seed production (if applicable) of the Conservation Variety.

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## PART III

### CONDITIONS RELATING TO CROPS FROM WHICH SEED IS OBTAINED

#### **Varietal identity and varietal purity**

1. The characteristics used for the determination of varietal identity and varietal purity shall be those to which regard was had when the Conservation Variety was accepted on to the relevant UK National List, an equivalent list in another EEA state or the Common Catalogue.

#### **Harmful organisms in the crop**

2. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

## PART IV

### CONDITIONS RELATING TO SEED OF A CONSERVATION VARIETY

#### **Standards of germination, analytical purity and content of seed of other plant species**

1. The seed shall conform to the minimum EC standard for the final germination of that species as listed in paragraphs 13 and 14 of Part II of Schedule 4 as regards germination, analytical purity and the content of seeds of other plant species.

#### **Harmful organisms in the seed**

2. Harmful organisms which reduce the usefulness of the seed shall be at the lowest possible level.

#### **Varietal purity**

3. The seed shall have sufficient varietal purity.

## PART V

### EXAMINATIONS

All examinations used to ascertain whether crops or seed lots meet the standards specified in this Schedule shall be carried out in accordance with current international methods insofar as such methods exist.”.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Cereal Seed (Scotland) Regulations 2005, the Fodder Plant Seed (Scotland) Regulations 2005 and the Oil and Fibre Plant Seed (Scotland) Regulations 2004 (referred to collectively as “the principal Regulations”) in order to permit the marketing of Conservation Varieties, in implementation of Commission Directive [2008/62/EC](#). Seed of a Conservation Variety may only be marketed where the following are complied with–

- (a) it is included in the UK National List of plant varieties of agricultural plant species, as a Conservation Variety;
- (b) it descends from seed produced according to well defined practices for maintenance of the variety;
- (c) the seed has been harvested from a crop that has been produced in the region of origins and meets normal requirements for crops with the exception of the requirements in respect of minimum varietal purity and the requirements concerning official examination or examination under official supervision for avoidance of doubt, in the case of a Conservation Variety an official field inspection of the crop is not required;
- (d) the seed must satisfy certain requirements as are laid down in Schedule 4A of each of the respective principal Regulations;
- (e) seed of a Conservation Variety must be marketed in its region of origin and those who produce seed of a Conservation Variety must supply the Scottish Ministers with details in writing as to the size in hectares and the location of the area to be used to produce the seed;
- (f) Conservation Varieties are subject to quantitative restrictions and accordingly these Regulations permit Scottish Ministers to specify the maximum amount of seed of a Conservation Variety which may be marketed in any growing season. Scottish Ministers may request in writing the amount and variety of the seed placed on the market during each growing season.

These Regulations permit Scottish Ministers to approve additional regions for seed production and marketing where the conditions in Article 11(1) of Commission Directive [2008/62/EC](#) are met (regulations 5, 15 and 25).

These Regulations also make certain consequential amendments including–

- (a) the insertion of new definitions in the principal Regulations (regulations 3, 13, 23);
- (b) various amendments to the application of official certificates, sampling, sealing and labelling provisions (regulations 6, 8, 9, 16, 18, 19, 26, 28, and 29);
- (c) they also make minor amendments to provisions and cross-references in the principal Regulations.

These Regulations insert a new Schedule 4A in the principal Regulations. This Schedule lays down the requirements particular to Conservation Varieties in respect of official certificates; conditions relating to crops from which seed is obtained; conditions relating to seed of a Conservation Variety and examinations (regulations 10, 20, 30 and Schedules 1, 2 and 3).

A Regulatory Impact Assessment has been prepared in respect of these Regulations and copies have been placed in the Scottish Parliament Information Centre. Copies may also be obtained from the Scottish Government Rural Directorate, Pentland House, 47 Robb’s Loan, Edinburgh, EH14 1TY.

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